

SUBJECT: Authorizing writs of mandamus against certain judges

COMMITTEE: Judiciary and Civil Jurisprudence — committee substitute recommended

VOTE: 7 ayes — Smithee, Farrar, Gutierrez, Laubenberg, Neave, Rinaldi, Schofield

0 nays

2 absent — Hernandez, Murr

SENATE VOTE: On final passage, April 19 — 31-0, on Local and Uncontested Calendar

WITNESSES: *On House companion bill, HB 1480:*
For — Kelly Ausley-Flores, Texas Family Law Foundation; (*Registered, but did not testify:* Amy Bresnen and Steve Bresnen, Texas Family Law Foundation)

Against — None

BACKGROUND: Government Code, sec. 22.221 allows courts of appeals or a justice on a court of appeals to issue a writ of mandamus against a district judge, county court judge, or a district court judge serving as magistrate in a court of inquiry. A writ of mandamus is an extraordinary form of interlocutory appeal that directs a judge to correct a mistaken ruling.

Some have called for other types of judges to be subject to these writs of mandamus as well.

DIGEST: CSSB 1233 would add statutory county, statutory probate county, and associate family law judges in county or district courts to the list of judges against whom a court of appeals could issue a writ of mandamus.

The bill would take effect September 1, 2017, and would apply only to a suit or a proceeding seeking a writ of mandamus filed on or after that date.

NOTES:

CSSB 1233 differs from the Senate-engrossed version of the bill in that the committee substitute would extend the writs to statutory county and probate court judges.

A companion bill, HB 1480 by S. Thompson, was approved by the House on May 9 and referred to the Senate Committee on Administration.